

**REMARKS**

Claims 1-4, 6-16 and 18-25 are pending. By this Amendment, claims 1, 2, 6-10, 16 and 22 are amended, claims 5 and 17 are canceled and claims 24 and 25 are added. In particular, the features of claims 5 and 17 have been incorporated into respective claims 1 and 16.

An Election of Species was required and Figs. 3, 4A- 4C and 9A-9C were elected. Claims 1, 2, 6-10, 14-16, 18-21, 24 and 25 read on the elected species. Applicants request rejoinder of withdrawn claims 3, 4, 11-13, 22 and 23. After further review, claims 3, 4 and 11-13 read on elected Figs. 4A-4C and 9A-9C, and claim 23 reads on elected Figs. 9A-9C. Claim 22 has been amended such that it reads on elected Figs. 4A-4C.

The drawings were objected to and the claims have been amended to remove the use of "first position of the inner wall surface." It is respectfully requested that the objection be withdrawn.

Claims 1, 2 and 5-9 were rejected under 35 U.S.C. §102(b) individually over EP 0933532 (Nakamura), WO 98/42984 (Ostberg), and WO 98/03794 (Adorjan), claim 15 was rejected under 35 U.S.C. §102(b) individually over Nakamura and Ostberg, and claim 10 was rejected under 35 U.S.C. §103(a) individually over Nakamura, Ostberg and Adorjan. The rejections are respectfully traversed.

None of the applied references disclose a pump, wherein when the first through hole and the second through hole are on a same side with respect to the partition, a fluid resistance between the first through hole and the second through hole is variable, as called for by claim 1. None of the applied references disclose the variable fluid resistance because none of the applied references provide structure for the case, rotor or partition that would allow for variable fluid resistance.

As illustrated by Nakamura, the rotor 4 is always in contact with the casing 1 (see Figs. 2-4). As a result, the fluid resistance between the first through hole and the second through hole is constant. Page 6 of the Office Action states that it is inherent that the first through hole and the second through hole have different fluid resistances. Applicants note that claim 1 calls for the fluid resistance between the first through hole and the second through hole to be variable. Nakamura fails to vary the fluid resistance between the first through hole and the second through hole.

With Ostberg, the rotor 3 is always in contact with the housing 2 (Figs. 4, 6 and 8A-8C). For reasons similar to Nakamura, the fluid resistance between the first through hole and the second through hole is constant.

Page 7 of the Office Action also asserts that Ostberg discloses using a cut portion around a groove. If it is the Examiner's position that the first arc (which is moved when there is excessive pressure or debris (page 9, lines 8-18)) illustrated by Ostberg's Fig. 2 is the cut portion that prevents the rotor 3 from contacting the housing 2, then Ostberg fails to disclose a partition with both ends in constant contact with an inner wall surface as called for by claim 1.

Adorjan discloses a shaft 20 (alleged rotor) that is in constant contact with the housing 10. For reasons similar to Nakamura, the fluid resistance between the first through hole and the second through hole is constant.

It is respectfully requested that the rejections be withdrawn.

Claims 14 and 15 were rejected under 35 U.S.C. §103(a) individually over Nakamura, Ostberg or Adorjan in view of JP-B2-7-80304 (Takehiko), claims 16-18 and 21 were rejected under 35 U.S.C. §103(a) individually over Nakamura, Ostberg or Adorjan in view of Takehiko, claim 19 was rejected under 35 U.S.C. §103(a) individually over Nakamura, Ostberg or Adorjan in view of Hino, U.S. Patent No. 6,561,637, or Maruyama, U.S. Patent No. 4,380,770, and

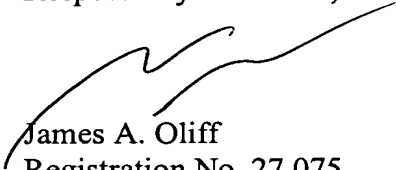
claim 20 was rejected under 35 U.S.C. §103(a) individually over Nakamura, Ostberg or Adorjan. The rejections are respectfully traversed.

None of the applied references overcome the deficiencies of Nakamura, Ostberg or Adorjan as applied to claim 1. In addition, for reasons similar to claim 1, none of the applied references disclose or suggest the fluid resistance of claim 16. It is respectfully requested that the rejections be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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